



February 13, 2009

## SENATE BILL No. 76

DIGEST OF SB 76 (Updated February 10, 2009 1:17 pm - DI 73)

**Citations Affected:** IC 13-21.

**Synopsis:** Solid waste management districts. Provides that for the first year that a property tax will be imposed by a solid waste management district, the district's board must present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of the property tax revenue. Provides that a district is subject to the statute that requires an entity with a nonelected board to get county council approval of the entity's proposed property tax levies and budget when the entity's budget is growing faster than the assessed value growth quotient. Provides that if a district will impose property taxes in the following year but is not required to seek county council approval (because the district's budget is growing by less than the assessed value growth quotient), the district's proposed budget and property tax levy for the following year are subject to review and a nonbinding recommendation by the county council. Provides that county council approval of a solid waste management district's initial property tax levy must be made before August 1 (rather than before May 1, under current law). Requires the district's annual budget to be approved by a majority vote of all members of the board. Provides that in the case where all but one of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district, the county that did not withdraw or was not removed from the joint district must designate itself as a new county district, join one or more other counties to form a new joint district, or join an existing joint district. Specifies that the following apply if such a county does not join or form a joint district: (1) The county must

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**Effective:** July 1, 2009.

**Gard**

January 7, 2009, read first time and referred to Committee on Tax and Fiscal Policy.  
February 12, 2009, amended, reported favorably — Do Pass.

SB 76—LS 6217/DI 52+



designate itself as a new county district and shall be treated as a new county district. (2) The district must after a public hearing adopt and submit to the IDEM commissioner for approval a new district solid waste management plan. (3) The district must after a public hearing adopt a new budget for the district. (4) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes. (5) The board of the district shall appoint and convene a new solid waste management advisory committee. Provides that in the case of a joint district from which all but one of the participating counties has withdrawn and from which the last withdrawing county withdrew effective after December 1, 2006, and before January 1, 2009, the county that did not withdraw from the district must take one of these actions before January 1, 2010. Provides that after any county designates itself as a new county district, joins one or more other counties to form a new joint district, or joins an existing joint district, the county district or joint district shall after a public hearing submit a district plan to the IDEM commissioner. Provides that if such a new county district or new joint district will impose property taxes in the following year, each of the county fiscal bodies within the district must approve the use of property taxes by the district. Specifies that a district may impose fees only if the district board holds a public hearing in the immediately preceding calendar year and then approves the fees by a majority vote of all members of the board. Requires consolidation of public hearings if imposition of both property taxes and fees is proposed.

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February 13, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 76

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-21-3-16, AS AMENDED BY P.L.189-2005,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 16. (a) The requirements of this section:

4 (1) are in addition to the requirements set forth in  
5 IC 6-1.1-18.5-7(b); and

6 (2) do not apply to a district that:

7 (A) owns a landfill;

8 (B) will use property tax revenue to:

9 (i) construct a new landfill cell; or

10 (ii) close a landfill cell;

11 at the landfill; and

12 (C) has received approval from the county fiscal body of the  
13 county in which the landfill is located to construct or close the  
14 landfill cell.

15 (b) ~~To be eligible to include within the district's budget for the~~  
16 ~~following year tax revenue derived from the imposition of a property~~  
17 ~~tax; For the first year that a property tax will be imposed and any~~

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subsequent year in which the proposed tax levy will increase by five percent (5%) or more; a by a district, the district's board must in the previous year present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of property tax revenue within the district. The resolution must state the proposed property tax levy and the proposed use of the revenue. The resolution:

(1) may not be presented under this subsection before the board complies with subsection (h);

(2) must be approved by a majority vote of all members of the board; and

(3) must be stated so that:

(+) (A) a "yes" vote indicates approval of the levy and the proposed use of property tax revenue within the district; and

(-) (B) a "no" vote indicates disapproval of the levy and the proposed use of property tax revenue within the district.

(c) The following apply for the second and subsequent years in which a district will impose a property tax levy:

(1) The district's proposed property tax levy and proposed budget must be approved by a majority vote of all members of the board.

(2) The district's proposed property tax levy and proposed budget are subject to review and approval under IC 6-1.1-17-20 or IC 36-3-6-9 (as applicable) if required by those statutes.

(-) (d) For a resolution described in subsection (b) to be approved by the county fiscal body:

(1) the county fiscal body must record the vote taken on the resolution under subsection (b) before ~~May~~ August 1 of the year in which the vote was taken; and

(2) the recorded vote must indicate approval of the use of property tax revenue within the district.

(-) (e) If all of the county fiscal bodies within a district do not record the approval described in subsection (-) (d) before ~~May~~ August 1 of the year in which the vote under subsection (b) was taken, the board may not:

(1) impose; or

(2) include within the budget of the board;

a property tax for the year following the year in which the vote was taken.

(-) (e) Notwithstanding subsection (d), after the first year a tax is imposed under this section, the resolution required by subsection (b) for a district that is located in more than two (2) counties need only be

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1 approved by a majority of the county fiscal bodies for the counties in  
2 which the district is located:

3 (f) A district may not issue bonds to be repaid, directly or indirectly,  
4 with money or property tax revenue of the district until a majority of  
5 the members of each of the county fiscal bodies within a district passes  
6 a resolution approving the bond issue.

7 (g) Subsection (c) applies regardless of whether property taxes  
8 are imposed in the district under this chapter in the immediately  
9 preceding calendar year.

10 (h) Subject to subsection (i), a board may present a resolution  
11 under subsection (b) or approve the district's proposed property  
12 tax levy and proposed budget under subsection (c) only after public  
13 notice and a public hearing before the board at which:

14 (1) all persons using facilities, owning property, or generating  
15 solid waste within the district who are benefited by solid waste  
16 management; and

17 (2) other interested persons;  
18 have an opportunity to be heard concerning the proposed property  
19 taxes.

20 (i) A board that proposes to impose:

21 (1) property taxes under this section; and

22 (2) solid waste management fees under IC 13-21-14-1;

23 for a calendar year shall consolidate the public hearing required by  
24 subsection (h) with the public hearing required by IC 13-21-14-5.

25 (j) If a district will impose property taxes in the following year  
26 but:

27 (1) the district is not required to adopt a resolution under  
28 subsection (b) and present the resolution to the county fiscal  
29 body for approval; and

30 (2) the district is not required by IC 6-1.1-17-20 or IC 36-3-6-9  
31 (as applicable) to have the district's proposed budget and  
32 proposed property levy reviewed and approved by the county  
33 fiscal body;

34 the district's proposed budget and property tax levy for the  
35 following year are subject to review and a nonbinding  
36 recommendation by the county fiscal body under IC 6-1.1-17-3.5.

37 SECTION 2. IC 13-21-3-21 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) Before the  
39 board of a district may adopt an annual budget, the budget must be:

40 (1) approved by the department of local government finance; and

41 (2) sent to:

42 (A) the executive; and

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(B) the fiscal body;

of each county and municipality located within the district as a matter of record.

**(b) The district's annual budget must be approved by a majority vote of all members of the board.**

SECTION 3. IC 13-21-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) If a county withdraws from or the county executives of a joint district remove a county from a joint district, the county must:

(1) designate itself as a new county district;

(2) join one (1) or more other counties to form a new joint district;

or

(3) join an existing joint district;

under the procedures set forth in IC 13-21-3.

(b) If a county:

(1) designates itself as a new county district; or

(2) joins one (1) or more other counties to form a new joint district;

the county district or new joint district shall, **after a public hearing**, submit a district plan to the commissioner as provided under IC 13-21-5. **If the new county district or new joint district will impose property taxes in the year after designating itself as a new county district or forming the new joint district, each of the county fiscal bodies within the new county district or new joint district must approve the use of property taxes by the district under the procedures specified in IC 13-21-3-16(b) and IC 13-21-3-16(h).**

(c) If a county joins an existing joint district, the joint district shall, **after a public hearing**, amend the joint district's district plan as provided under IC 13-21-5. **If the joint district will impose property taxes in the year after a county joins the joint district, each of the county fiscal bodies within the joint district must approve the use of property taxes under the procedures specified in IC 13-21-3-16(b) and IC 13-21-3-16(h).**

(d) If a county withdraws or is removed from a joint district that consists of more than two (2) counties, the joint district shall **after a public hearing** amend the joint district's district plan as provided under IC 13-21-5. **If the joint district will impose property taxes in the year after a county withdraws or is removed from the joint district, each of the county fiscal bodies within the joint district must approve the use of property taxes under the procedures specified in IC 13-21-3-16(b) and IC 13-21-3-16(h).**

(e) The following apply if a joint district is dissolved or if all but

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one (1) of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district:

(1) The county executive of each county that was participating in the joint district must:

(A) designate itself as a new county district;

(B) join one (1) or more other counties to form a new joint district; or

(C) join an existing joint district;

as provided in this section.

(2) In the case where all but one (1) of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district, the county that did not withdraw or was not removed from the joint district must still comply with the requirements of subdivision (1).

(3) The following apply if the county that did not withdraw or was not removed from the joint district does not join one (1) or more other counties to form a new joint district or does not join an existing joint district:

(A) The county must designate itself as a new county district and shall be treated for purposes of this article as a new county district.

(B) The district must, after a public hearing, adopt and submit to the commissioner for approval a new district solid waste management plan that meets the requirements of IC 13-21-5 and the criteria and other elements set forth in the state plan. The district must follow the procedures of IC 13-21-5 in creating and submitting the district's new solid waste management plan.

(C) The district must, after a public hearing, adopt a new budget for the district.

(D) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes under the procedures specified in IC 13-21-3-16.

(E) The board of the district shall appoint and convene a new solid waste management advisory committee of citizens under IC 13-21-3-11.

(f) This subsection applies to a joint district if all but one (1) of the counties participating in the joint district withdrew from the joint district and the last county to withdraw did so effective after

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December 1, 2006, and before January 1, 2009. If the county that did not withdraw from the district did not designate itself as a new county district, join one (1) or more other counties to form a new joint district, or join an existing joint district, the county must take one (1) of these actions before January 1, 2010. If the county that did not withdraw from the district designates itself as a new county district, the following apply:

(1) The county shall be treated for purposes of this article as a new county district.

(2) The district must after a public hearing adopt and submit to the commissioner for approval a new district solid waste management plan that meets the requirements of IC 13-21-5 and the criteria and other elements set forth in the state plan. The district must follow the procedures of IC 13-21-5 in creating and submitting the district's new solid waste management plan.

(3) The district must after a public hearing adopt a new budget for the district.

(4) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes under the procedures specified in IC 13-21-3-16.

(5) The board of the district shall appoint and convene a new solid waste management advisory committee of citizens under IC 13-21-3-11.

SECTION 4. IC 13-21-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A board:

(1) may; and

(2) if necessary to pay principal or interest on any bonds issued under this article or IC 13-9.5-9 (repealed), shall;

establish solid waste management fees in addition to fees imposed under IC 13-21-13 or IC 13-9.5-7 (before its repeal) that apply to all persons owning real property or generating solid waste within the district who are benefited by solid waste management, solid waste collection, a facility for solid waste disposal, or a facility for solid waste processing.

(b) ~~The Subject to subsections (c) and (d), a board may change and readjust that proposes to impose fees as necessary in the district under this section in a calendar year after 2009 must in the immediately preceding calendar year approve the imposition of the fees by adoption of a resolution by a majority vote of all members of the board.~~

(c) Subsection (b) applies regardless of whether fees are imposed

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1 in the district under this chapter in the immediately preceding  
2 calendar year referred to in subsection (b).

3 (d) A board may not adopt a resolution under subsection (b)  
4 before a public hearing is held under section 5 of this chapter.

5 SECTION 5. IC 13-21-14-5 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) **Subject to**  
7 **subsection (g)**, fees shall be established only after public notice and a  
8 public hearing before the board at which:

9 (1) all persons using facilities, owning property, or generating  
10 solid waste within the district who are benefited by solid waste  
11 management; and

12 (2) other interested persons;

13 have an opportunity to be heard concerning the proposed fees.

14 (b) After introduction of a resolution fixing fees and before the  
15 resolution is adopted, public notice of the hearing, setting forth the  
16 schedule of fees, shall be given. The hearing may be adjourned as  
17 necessary.

18 (c) After the hearing the resolution establishing fees, either as  
19 originally introduced or as amended, shall be passed and put into  
20 effect.

21 (d) A copy of the schedule of fees established shall be kept:

22 (1) on file in the office of the board or the controller, secretary, or  
23 other record keeping officer of the district; and

24 (2) open to inspection by all interested persons.

25 (e) The fees established extend to cover any additional territory later  
26 served that falls within the same class without the necessity of a  
27 hearing or notice.

28 (f) **During a calendar year, a board may change or readjustment**  
29 **of readjust fees may be made first due and payable in that calendar**  
30 **year** in the same manner as the fees were originally established.

31 (g) **A board that proposes to impose:**

32 (1) **fees under this section; and**

33 (2) **property taxes under IC 13-21-3-16;**

34 **for a calendar year shall consolidate the public hearing required by**  
35 **subsection (a) with the public hearing required by**  
36 **IC 13-21-3-16(h).**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 76, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 13-21-3-16, AS AMENDED BY P.L.189-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) The requirements of this section:

- (1) are in addition to the requirements set forth in IC 6-1.1-18.5-7(b); and
- (2) do not apply to a district that:
  - (A) owns a landfill;
  - (B) will use property tax revenue to:
    - (i) construct a new landfill cell; or
    - (ii) close a landfill cell;
 at the landfill; and
  - (C) has received approval from the county fiscal body of the county in which the landfill is located to construct or close the landfill cell.

(b) ~~To be eligible to include within the district's budget for the following year tax revenue derived from the imposition of a property tax, For the first year that a property tax will be imposed and any subsequent year in which the proposed tax levy will increase by five percent (5%) or more; a by a district, the district's board must in the previous year~~ present identical resolutions to each of the county fiscal bodies within the district seeking approval for the use of property tax revenue within the district. The resolution must state the proposed property tax levy and the proposed use of the revenue. The resolution:

- (1) may not be presented under this subsection before the board complies with subsection (h);**
- (2) must be approved by a majority vote of all members of the board; and**
- (3) must be stated so that:**
  - ~~(1)~~ **(A)** a "yes" vote indicates approval of the levy and the proposed use of property tax revenue within the district; and
  - ~~(2)~~ **(B)** a "no" vote indicates disapproval of the levy and the proposed use of property tax revenue within the district.

**(c) The following apply for the second and subsequent years in which a district will impose a property tax levy:**

- (1) The district's proposed property tax levy and proposed budget must be approved by a majority vote of all members**

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of the board.

**(2) The district's proposed property tax levy and proposed budget are subject to review and approval under IC 6-1.1-17-20 or IC 36-3-6-9 (as applicable) if required by those statutes.**

~~(c)~~ **(d)** For a resolution described in subsection (b) to be approved by the county fiscal body:

- (1) the county fiscal body must record the vote taken on the resolution under subsection (b) before ~~May~~ **August** 1 of the year in which the vote was taken; and
- (2) the recorded vote must indicate approval of the use of property tax revenue within the district.

~~(d)~~ **(e)** If all of the county fiscal bodies within a district do not record the approval described in subsection ~~(c)~~ **(d)** before ~~May~~ **August** 1 of the year in which the vote under subsection (b) was taken, the board may not:

- (1) impose; or
- (2) include within the budget of the board;

a property tax for the year following the year in which the vote was taken.

~~(e)~~ Notwithstanding subsection ~~(d)~~, after the first year a tax is imposed under this section, the resolution required by subsection (b) for a district that is located in more than two (2) counties need only be approved by a majority of the county fiscal bodies for the counties in which the district is located:

(f) A district may not issue bonds to be repaid, directly or indirectly, with money or property tax revenue of the district until a majority of the members of each of the county fiscal bodies within a district passes a resolution approving the bond issue.

**(g) Subsection (c) applies regardless of whether property taxes are imposed in the district under this chapter in the immediately preceding calendar year.**

**(h) Subject to subsection (i), a board may present a resolution under subsection (b) or approve the district's proposed property tax levy and proposed budget under subsection (c) only after public notice and a public hearing before the board at which:**

- (1) all persons using facilities, owning property, or generating solid waste within the district who are benefited by solid waste management; and**
- (2) other interested persons;**

**have an opportunity to be heard concerning the proposed property taxes.**

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(i) A board that proposes to impose:

(1) property taxes under this section; and

(2) solid waste management fees under IC 13-21-14-1;

for a calendar year shall consolidate the public hearing required by subsection (h) with the public hearing required by IC 13-21-14-5.

(j) If a district will impose property taxes in the following year but:

(1) the district is not required to adopt a resolution under subsection (b) and present the resolution to the county fiscal body for approval; and

(2) the district is not required by IC 6-1.1-17-20 or IC 36-3-6-9 (as applicable) to have the district's proposed budget and proposed property levy reviewed and approved by the county fiscal body;

the district's proposed budget and property tax levy for the following year are subject to review and a nonbinding recommendation by the county fiscal body under IC 6-1.1-17-3.5.

SECTION 2. IC 13-21-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) Before the board of a district may adopt an annual budget, the budget must be:

(1) approved by the department of local government finance; and

(2) sent to:

(A) the executive; and

(B) the fiscal body;

of each county and municipality located within the district as a matter of record.

**(b) The district's annual budget must be approved by a majority vote of all members of the board.**

SECTION 3. IC 13-21-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) If a county withdraws from or the county executives of a joint district remove a county from a joint district, the county must:

(1) designate itself as a new county district;

(2) join one (1) or more other counties to form a new joint district; or

(3) join an existing joint district;

under the procedures set forth in IC 13-21-3.

(b) If a county:

(1) designates itself as a new county district; or

(2) joins one (1) or more other counties to form a new joint district;

the county district or new joint district shall, **after a public hearing,**

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submit a district plan to the commissioner as provided under IC 13-21-5. **If the new county district or new joint district will impose property taxes in the year after designating itself as a new county district or forming the new joint district, each of the county fiscal bodies within the new county district or new joint district must approve the use of property taxes by the district under the procedures specified in IC 13-21-3-16(b) and IC 13-21-3-16(h).**

(c) If a county joins an existing joint district, the joint district shall, **after a public hearing**, amend the joint district's district plan as provided under IC 13-21-5. **If the joint district will impose property taxes in the year after a county joins the joint district, each of the county fiscal bodies within the joint district must approve the use of property taxes under the procedures specified in IC 13-21-3-16(b) and IC 13-21-3-16(h).**

(d) If a county withdraws or is removed from a joint district that consists of more than two (2) counties, the joint district shall **after a public hearing** amend the joint district's district plan as provided under IC 13-21-5. **If the joint district will impose property taxes in the year after a county withdraws or is removed from the joint district, each of the county fiscal bodies within the joint district must approve the use of property taxes under the procedures specified in IC 13-21-3-16(b) and IC 13-21-3-16(h).**

(e) The following apply if a joint district is dissolved or if all but one (1) of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district:

(1) The county executive of each county that was participating in the joint district must:

(A) designate itself as a new county district;

(B) join one (1) or more other counties to form a new joint district; or

(C) join an existing joint district;

as provided in this section.

(2) In the case where all but one (1) of the counties participating in a joint district have withdrawn from the joint district or have been removed from the joint district, the county that did not withdraw or was not removed from the joint district must still comply with the requirements of subdivision (1).

(3) The following apply if the county that did not withdraw or was not removed from the joint district does not join one (1) or more other counties to form a new joint district or does not

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join an existing joint district:

(A) The county must designate itself as a new county district and shall be treated for purposes of this article as a new county district.

(B) The district must, after a public hearing, adopt and submit to the commissioner for approval a new district solid waste management plan that meets the requirements of IC 13-21-5 and the criteria and other elements set forth in the state plan. The district must follow the procedures of IC 13-21-5 in creating and submitting the district's new solid waste management plan.

(C) The district must, after a public hearing, adopt a new budget for the district.

(D) If the district will impose property taxes in the following year, the county fiscal body must approve the use of property taxes under the procedures specified in IC 13-21-3-16.

(E) The board of the district shall appoint and convene a new solid waste management advisory committee of citizens under IC 13-21-3-11.

(f) This subsection applies to a joint district if all but one (1) of the counties participating in the joint district withdrew from the joint district and the last county to withdraw did so effective after December 1, 2006, and before January 1, 2009. If the county that did not withdraw from the district did not designate itself as a new county district, join one (1) or more other counties to form a new joint district, or join an existing joint district, the county must take one (1) of these actions before January 1, 2010. If the county that did not withdraw from the district designates itself as a new county district, the following apply:

(1) The county shall be treated for purposes of this article as a new county district.

(2) The district must after a public hearing adopt and submit to the commissioner for approval a new district solid waste management plan that meets the requirements of IC 13-21-5 and the criteria and other elements set forth in the state plan. The district must follow the procedures of IC 13-21-5 in creating and submitting the district's new solid waste management plan.

(3) The district must after a public hearing adopt a new budget for the district.

(4) If the district will impose property taxes in the following

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**year, the county fiscal body must approve the use of property taxes under the procedures specified in IC 13-21-3-16.**

**(5) The board of the district shall appoint and convene a new solid waste management advisory committee of citizens under IC 13-21-3-11."**

Delete page 2.

Page 3, delete lines 1 through 16.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 76 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

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